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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-sixth session

SUMMARY RECORD OF THE 1397th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 March 2000, at 3 p.m.

Chairman: Mr. SHERIFIS

later: Mr. RECHETOV (Vice-Chairman)

later: Mr. SHERIFIS

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Draft concluding observations concerning the fourteenth periodic report of Denmark (CERD/C/56/Misc.30/Rev.2) (continued)

Paragraph 12

1. Mr. RECHETOV proposed deleting paragraph 12.

2. Mr. DIACONU supported Mr. Rechetov's proposal. The level of monthly allowances was a matter for States themselves to decide. In any case, Denmark had withdrawn the measure following complaints.

3. Mr. YUTZIS (Country Rapporteur) said that, bearing in mind the last point made by Mr. Diaconu, he agreed that paragraph 12 should be deleted.

4. Paragraph 12 was deleted.

Paragraph 13

5. Mr. RECHETOV said that paragraph 13 contained important points, but he did not think that the Committee should dictate to legislators how the Criminal Code should be enforced.

6. Mr. BOSSUYT said that although some individuals had certainly been convicted for violating section 266 (b) of the Criminal Code, he was not certain that the Committee had sufficient information to conclude that there had been grave acts of racism, that sanctions had been too light and that judges had not taken all elements properly into account in specific cases. He therefore proposed deleting the words "grave acts of racism have received light sanctions". Furthermore, the word "qualified" should be replaced by "applied".

7. Mr. ABOUL-NASR asked whether the question of light sanctions had been raised with the State party during consideration of its fourteenth periodic report (CERD/C/362/Add.1). As he recalled, the Danish delegation had in fact addressed that issue. If so, the Committee should take note of its reply. Where had the Committee obtained the information contained in paragraph 13?

8. The CHAIRMAN said that Mr. Bossuyt's point was well taken. The Committee could not sit in judgement on the Danish courts.

9. Mr. de GOUTTES also agreed with Mr. Bossuyt. To simplify matters and circumvent the difficulties posed, he suggested deleting the entire first sentence. The last sentence contained the crux of the recommendation.

10. Mr. RECHETOV endorsed the proposal by the previous speaker. The second sentence was more important and should be retained. But he disagreed with Mr. Bossuyt about deleting the phrase "grave acts of racism have received light sanctions"; many examples had been given in the current and previous periodic report of sanctions for racist offences which sometimes amounted to a fine of no more than the equivalent of 5 or 10 days' wages. The phrase should therefore stay.

11. Mr. YUTZIS (Country Rapporteur) said that he was certain that the point contained in paragraph 13 had been made by many sources, including the Council of Europe and the European Union. With a view to achieving a consensus, he suggested deleting the first two lines and starting paragraph 13 with the words: "The Committee remains concerned that grave acts of racism" and so on.

12. Mr. BRYDE said that he agreed that there was a problem with assessing the level of sanctions imposed in a given country, not only because it was not for the Committee to sit in judgement, but also because the enforcement of criminal law differed from one country to the next. Denmark had one of the world's lowest incarceration rate, for which it had been commended in other treaty bodies. Thus, sanctions for crimes of concern to the Committee might also be lighter than elsewhere. But as differences of opinion remained, he suggested the following wording: "Some members of the Committee consider that in application of section 266 (b), grave acts of racism appear to have received light sanctions in some cases."

13. The CHAIRMAN said that the disadvantage of such a wording was that it would not represent the view of the Committee as a whole.

14. Ms. JANUARY-BARDILL proposed replacing "qualified proportionally" by "commensurate".

15. Mr. VALENCIA RODRIGUEZ said that in accordance with articles 4 and 6 of the Convention, the Committee was not empowered to decide whether the sanctions imposed by a State party in response to racist acts were light or not. He therefore suggested deleting the words: "it nevertheless remains concerned that grave acts of racism have received light sanctions". Paragraph 13 would then read: "The Committee notes that some individuals have been convicted for violating section 266 (b) of the Criminal Code and suggests that sanctions decided under the Criminal Code be commensurate with the nature of the related crime". That way, both points which paragraph 13 sought to make would be covered.

16. Mr. BRYDE endorsed the proposal by Mr. Valencia Rodriguez and withdrew his own suggestion.

17. Mr. SHAHI said that he had expressly drawn the attention of the Danish delegation to the light sanctions imposed for such offences, and in particular to what was stated in paragraph 140 of the State party's fourteenth periodic report; the punishments for the nine convictions for violation of section 266 (b) of the Criminal Code really seemed too light. That was borne out by the penultimate example cited in paragraph 140, according to which the Public Prosecutor

himself had appealed a sentence on the grounds that it had been too lenient. He thus thought that paragraph 13 was on solid ground; after all, it did not give any opinion as to what the sanction should have been, but simply said that it should be commensurate with the gravity of the crime.

18. Mr. de GOUTTES said that the Committee could make recommendations solely in respect of legislation; it could not influence the sanctions which Danish judges imposed. He suggested retaining the final sentence only and adding the following words at the beginning: "Concerned that grave acts of racism have received light sanctions, the Committee suggests that the sanctions decided under the Criminal Code be commensurate with" and so on.

19. Mr. YUTZIS (Country Rapporteur) said that the proposal by Mr. Valencia Rodriguez was well balanced. But he did not share the view that the Committee could not take a position on the way in which judges interpreted legislation. In some cases, the Committee was in danger of legitimating barbarous acts in countries where the law was not enforced in accordance with the provisions of the Convention.

20. Mr. ABOUL-NASR said that it seemed that there was a consensus on the proposal by Mr. Valencia Rodriguez. Paragraph 13 should thus be adopted.

21. Paragraph 13, as amended, was adopted.

Paragraph 14

22. Mr. RECHETOV said that the first sentence of paragraph 14 should end with the words "rights listed in article 5"; the subsequent enumeration of those rights should be deleted, because they were self-explanatory. Also, the word "employers" in the fifth line should perhaps read "offices".

23. Mr. BOSSUYT said that he was not happy with the phrase "concerned by the high level of unemployment among foreigners". In a market economy such as Denmark's, it was not for the Government to create jobs, nor was there any obligation under the Convention for a State party to do so.

24. Mr. YUTZIS (Country Rapporteur) said that he was in total disagreement with Mr. Bossuyt. If the government did not provide the conditions for enabling the most vulnerable groups to have access to employment, the market economy would certainly not do so. That was the whole point of paragraph 14.

25. Mr. NOBEL said that he was opposed to Mr. Bossuyt's proposed deletion and referred in that context to article 5 (e) (i) of the Convention, which set out the right to work and related rights. It was the Government's responsibility to guarantee those rights.

26. Mr. DIACONU suggested replacing the words "public employers" by "employment" and "representatives" by "members" in the fifth line.

27. Mr. FALL questioned the need for the reference to the very high level of unemployment among foreigners in Denmark; such a situation was not unique to the State party, but common to many other European countries.

28. Mr. YUTZIS (Country Rapporteur) pointed out that during its dialogue with the Committee the State party had acknowledged the considerable difference in employment opportunities between foreigners and Danish citizens. Moreover, if the problem applied to other European State parties, as Mr. Fall had suggested, he would feel obliged to refer to it in their concluding observations as well.

29. Mr. VALENCIA RODRIGUEZ proposed, in the light of the comments made, that the text could be considerably shortened and amended to read: "The Committee is concerned that equal attention be paid to the economic, social and cultural rights listed in article 5. It is particularly concerned by the level of unemployment among foreigners and the difficult access to public employment by members of ethnic minorities. In particular, the Committee draws the attention of the State party to the fact that, although it is not obliged to provide work permits to foreign residents, it has to guarantee that foreigners who have obtained a work permit are not discriminated against in their access to employment".

30. Ms. JANUARY-BARDILL proposed deleting the word "foreigners" in the second sentence, since in her experience, foreigners and members of ethnic minorities were considered to be one and the same.

31. Mr. ABOUL-NASR disagreed with Ms. January-Bardill; foreigners and members of ethnic minorities were two entirely different concepts.

32. The CHAIRMAN said he would take it that Ms. January-Bardill did not wish to press her proposal, given that several members seemed to be in favour of the amended text proposed by Mr. Valencia-Rodriguez

33. It was so agreed.

34. Paragraph 14, as amended by Mr. Valencia Rodriguez, was adopted.

Paragraph 15

35. Mr. SHAHI proposed that in the first sentence "the effort taken" should be replaced by "effort made".

36. Mr. ABOUL-NASR said that the paragraph required some redrafting since it dealt with several different issues in the same sentence: women belonging to ethnic minorities, measures to reduce unemployment; and integration of members of ethnic minorities in the public administration. It also confused the two distinct concepts of foreigners and members of ethnic minorities.

37. Mr. de GOUTTES proposed that the first part of the paragraph which read: "The Committee takes note of the effort made in favour of women belonging to ethnic minorities"should be transposed to section B, entitled Positive aspects.

38. Mr. DIACONU endorsed that proposal. Furthermore, since paragraph 14 already covered the problem of unemployment and access to public employment, the latter part of paragraph 15 appeared redundant and could therefore be deleted.

39. Mr. YUTZIS (Country Rapporteur) said it was essential to retain the reference to facilitating the professional integration of members of ethnic minorities in the public administration, since it was not mentioned anywhere else in the concluding observations.

40. Mr. DIACONU proposed, on the understanding that the first part of the paragraph would be incorporated in section B, that the remaining text be reworded to read: "The Committee recommends that the State party should facilitate the professional integration of persons belonging to ethnic minorities in the public administration".

41. Paragraph 15, as amended, was adopted.

Paragraph 16

42. Mr. ABOUL-NASR said he felt it was not necessary to express the Committee's concern about the fact that the Convention had not yet been translated into the Greenlandic language, and suggested that the paragraph could be considerably shortened.

43. Following comments by Mr. YUTZIS (Country Rapporteur) and Mr. BOSSUYT, the CHAIRMAN proposed that the paragraph be reworded along the lines of: "The Committee recommends that the State party should take appropriate steps to translate the Convention into the Greenlandic language and disseminate it, as appropriate".

44. Paragraph 16, as amended, was adopted.

Paragraph 17

45. Mr. VALENCIA RODRIGUEZ proposed deleting "and its decisions on individual communications" from the first sentence, since it was not appropriate to refer to procedures under article 14 of the Convention in the text of concluding observations.

46. Mr. NOBEL said that the fact that Denmark had pioneered the organization of seminars to discuss its periodic reports and the Committee's concluding observations should be reflected in the paragraph. He therefore proposed adding the word "even" before "further action to be taken to see that the provisions of the Convention are more widely disseminated".

47. Paragraph 17, as amended, was adopted.

Paragraph 18

48. Mr. DIACONU proposed that the text of the paragraph be aligned with that of the last paragraph in the model concluding observations.

49. Paragraph 18, as amended, was adopted.

New paragraph under Positive aspects

50. The CHAIRMAN recalled that in connection with consideration of paragraph 11 there had been a proposal for a new paragraph welcoming the action taken by the State party in response to the Committee's concern about housing allocated to an elderly, illiterate Iraqi refugee in one of the Danish municipalities. However, no decision had been taken on the matter pending the availability of the relevant documentation. Referring to a statement from the Danish Ministry of the Interior, forwarded to the Committee by the Permanent Mission of Denmark in Geneva on 20 March 2000, he continued that the Danish Immigration Service had decided to adjust its practice with respect to refugees so that in future dependants of refugees would be allocated housing in the same municipalities, irrespective of municipal quotas. The Country Rapporteur was requested to draft an appropriate statement in the light of that information.

51. Mr. de GOUTTES suggested the statement should be drafted to the effect that the Committee welcomed the decision by the Danish Immigration Service to adjust its housing allocation practices with respect to refugees in Danish municipalities.

52. It was so decided.

Paragraph 5

53. Mr. BANTON recalled that no decision had been taken on the paragraph owing to concerns expressed about the statement in the latter part of the paragraph whereby the new act on the Board for Ethnic Equality had been recommended by the Danish Parliament as a means of assisting aliens to return to their countries of origin. He proposed that the somewhat paradoxical statement should be deleted on the grounds that it was a matter of internal politics.

54. Paragraph 5, as amended, was adopted.

55. The draft concluding observations concerning the fourteenth periodic report of Denmark as a whole, as amended, were adopted.

Draft concluding observations concerning the eighth to twelfth periodic reports of Rwanda (CERD/C/56/Misc.38/Rev.2)

Paragraphs 1 to 3

56. Paragraphs 1 to 3 were adopted.

Paragraph 4

57. Mr. ABOUL-NASR sought clarification regarding the purpose of the statement in paragraph 4.

58. Mr. NOBEL (Country Rapporteur) said it was difficult to avoid commenting on past events in Rwanda, which had witnessed one of the worst tragedies of recent history. The statement was intended by way of background information to place the concerns expressed by the Committee in subsequent paragraphs in some historical context.

59. Mr. Rechetov (Vice-Chairman) took the Chair.

60. Mr. ABOUL-NASR said his concern was that many of the problems mentioned in paragraph 4 had not yet been resolved, yet they were referred to as past events. However, he would not press for an amendment.

61. Paragraph 4 was adopted.

Paragraphs 5 to 8

62. Paragraphs 5 to 8 were adopted.

Paragraph 9

63. Mr. DIACONU proposed that an alternative be found for the word "welcome".

64. The CHAIRMAN suggested using the word "receive" instead.

65. Paragraph 9, as amended, was adopted.

Paragraph 10

66. Ms. JANUARY-BARDILL suggested a drafting change to the second sentence.

67. Mr. BANTON proposed the wording "recommends the State party to continue addressing ...".

68. Paragraph 10, as amended, was adopted.

Paragraphs 11 to 17

69. Paragraphs 11 to 17 were adopted.

Paragraph 18

70. Mr. DIACONU said that the first part of the paragraph presented the facts, but did not express any concern or make any recommendations. The expression of concern figured only in the last sentence. To make the text more concise and straightforward, he proposed that the entire beginning of the paragraph be deleted and only the last sentence retained.

71. Mr. de GOUTTES said that the short reference at the beginning of the paragraph to the two decisions previously issued by the Committee should be retained, if not in paragraph 18, then perhaps at the beginning of paragraph 4.

72. Mr. ABOUL-NASR proposed that the references to the Committee's decisions should be kept at the beginning of paragraph 18, and that only the middle part of the paragraph, between the words "the Committee considers that the genocide ..." and "international humanitarian law", should be deleted. It would also be necessary to delete the word "further" from the last sentence.

73. Paragraph 18, as amended, was adopted.

Paragraph 19

74. Mr. DIACONU said that the last sentence did not appear to be linked to the one preceding it, and in any case the subject with which it dealt was unrelated to the Convention. He proposed that it should be deleted.

75. Paragraph 19, as amended, was adopted.

Paragraph 20

76. Mr. ABOUL-NASR asked, in the context of a country such as Rwanda, what sort of action the Committee could expect the Government to take to improve the human rights situation and increase mutual understanding.

77. Mr. NOBEL (Country Rapporteur) recalled that during the oral presentation several impressive examples had been given of education and information campaigns. It would be of interest to the Committee to receive information on further progress made in that regard.

78. The CHAIRMAN, speaking in his personal capacity, said that any steps, even small, would be welcome if they could help improve the human rights situation.

79. Paragraph 20 was adopted.

Paragraphs 21 to 23

80. Paragraphs 21 to 23 were adopted.

Paragraph 24

81. The CHAIRMAN, speaking in his personal capacity, suggested that the word "all" should be deleted.

82. Paragraph 24, as amended, was adopted.

83. The draft concluding observations concerning the eighth to twelfth periodic reports of Rwanda as a whole, as amended, were adopted.

Draft concluding observations concerning the seventh to fourteenth periodic reports of Lesotho (CERD/C/56/Misc.39/Rev.2, future CERD/C/.../Add...)

Paragraph 1

84. Paragraph 1 was adopted.

Paragraph 2

85. Mr. DIACONU proposed that the words "helpful and" be deleted.

86. Paragraph 2, as amended, was adopted.

Paragraphs 3 and 4

87. Paragraphs 3 and 4 were adopted.

Paragraph 5

88. Mr. ABOUL-NASR asked which source had provided the information about the recent incidents to which reference was made in the first sentence. Perhaps the wording should instead be "about recent reports of incidents ...".

89. Ms. McDOUGALL (Country Rapporteur) replied that the information came from the periodic report.

90. Paragraph 5 was adopted.

Paragraph 6

91. Mr. BOSSUYT said that if the Convention was not self-executing, then by definition it could not be directly invoked before the national courts. He proposed that the last part of the paragraph, beginning with the words "in particular", be deleted.

92. Paragraph 6, as amended, was adopted.

93. Mr. SHERIFIS, Chairman, resumed the Chair.

Paragraph 7

94. Mr. VALENCIA RODRIGUEZ proposed that the phrase "on the territory of the State party" be deleted.

95. Paragraph 7, as amended, was adopted.

Paragraph 8

96. Ms. McDOUGALL (Country Rapporteur) said that the last part of the paragraph should read "information about: (a) the ethnic composition of the population and (b) measures taken to implement article 7 of the Convention".

97. Paragraph 8, as amended, was adopted.

Paragraphs 9 to 12

98. Paragraphs 9 to 12 were adopted.

99. The draft concluding observations concerning the seventh to fourteenth periodic reports of Lesotho as a whole, as amended, were adopted.

Draft concluding observations concerning the initial to fifth periodic reports of Bahrain (CERD/C/56/Misc.41/Rev.2, future CERD/C/.../Add...)

100. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the draft concluding observations incorporated suggestions made by Mr. Diaconu and Mr. Nobel.

101. The CHAIRMAN invited the Committee to consider the draft concluding observations on Bahrain paragraph by paragraph.

Paragraph 1

102. Paragraph 1 was adopted.

Paragraph 2

103. Mr. BANTON said that lines 6 and 7 were incorrect. The report under consideration was the first report received from the State party; it had been nine years since the State party ratified the Convention in 1990. He suggested that the words "since the submission of a report" be replaced by "since Bahrain became a State party to the Convention".

104. Mr. RECHETOV said that although the Committee did note when reports were overdue it was not in the habit of mentioning the date of ratification by a State party and he saw no reason to start with Bahrain.

105. Mr. VALENCIA RODRIGUEZ (Country Rapporteur), supported by the Chairman in his personal capacity, suggested that the words "since the submission of a report" should be replaced by "since the date of ratification".

106. It was so decided.

107. Paragraph 2, as amended, was adopted.

Paragraphs 3 and 4

108. Paragraphs 3 and 4 were adopted.

Paragraph 5

109. Mr. BANTON pointed out that the Committee was not in the habit of mentioning specific United Nations Development Programme (UNDP) Human Development Index ranking in its observations.

110. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that the information was useful, but he would have no objection to deleting the paragraph.

111. Mr. SHAHI noted that the delegation had taken great pleasure in indicating its ranking and he felt there would be no harm in retaining the paragraph, although he had no real objection to deleting it.

112. The CHAIRMAN suggested that paragraph 5 be deleted.

113. It was so decided.

Paragraph 6

114. Paragraph 6 was adopted.

Paragraph 7

115. Mr. BOSSUYT suggested that in line 3 the words "and a majority of the workforce (63 per cent)" should be inserted after "population (38 per cent)".

116. Mr. ABOUL-NASR suggested that in paragraphs 7, 8 and 10, since the Committee was discussing the first report by the State party, rather than speaking of "concern" it would be more appropriate to simply request more information. The only area where "concern" was appropriate was in paragraph 9, where the Committee had a difference of opinion with the report of the State party concerning article 4.

117. The CHAIRMAN agreed that it would be sufficient to request the State party to provide more information in its next periodic report.

118. Mr. SHAHI, supported by Ms. JANUARY-BARDILL said that in line 3, it would be sufficient to simply speak of "Bahrainis", and delete the word "ethnic".

119. The CHAIRMAN, supported by Mr. VALENCIA RODRIGUEZ (Country Rapporteur), suggested that paragraph 7 be redrafted to take into account committee members' suggestions.

120. Paragraph 7, subject to redrafting as agreed, was adopted.

Paragraph 8

121. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) suggested that he redraft paragraph 8 to remove the reference to "concern" and replace it with a request for more information.

122. It was so decided.

Paragraph 9

123. Paragraph 9 was adopted.

Paragraph 10

124. Mr. ABOUL-NASR suggested that "foreigners" were by definition non-Bahrainis and he therefore suggested, supported by the CHAIRMAN and by Mr. BOSSUYT, that in lines 2 and 3 the words "or non-ethnic Bahrainis" be deleted.

125. It was so decided.

126. Paragraph 10, as amended, was adopted.

Paragraph 11

127. Mr. ABOUL-NASR questioned whether it was necessary to include mention of the "Paris Principles" in line 1.

128. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that he believed that Mr. de Gouttes had referred to those principles during discussion of the report. However he was ready to delete the reference and simply have the paragraph read "In light of the principles relating to".

129. Mr. de GOUTTES said that he felt it would be useful to refer to the principles which had been adopted by the General Assembly.

130. The CHAIRMAN suggested that the paragraph should be amended to read "In light of the principles relating to ...".

131. It was so decided.

132. Paragraph 11, as amended, was adopted.

Paragraph 12

133. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) said that in line 4 the word "society" should be inserted after "civil".

134. Mr. RECHETOV, supported by Ms. ZOU Deci, said that the Committee was not in the habit of requesting States parties to report on the activities of non-governmental organizations within their territory and he saw no compelling reason to do so in the case of Bahrain. He therefore suggested that paragraph 12 be deleted.

135. Mr. PILLAI said that the Committee had received a great deal of information from foreign-based non-governmental organizations, but he would like to have more information from Bahraini organizations, as he had suggested to the delegation, and he would therefore prefer to retain paragraph 12.

136. Mr. NOBEL said that in some cases it was perhaps appropriate to encourage critical review by groups within a State's civil society and to suggest that the State party provide information on the activities of its national non-governmental organizations. He suggested, however, that it might be more appropriate, in line 4, to replace the word "activities" with the words "the role".

137. Mr. SHAHI said that requesting States parties to report on the activities of non-governmental organizations would impose an additional burden on them. Moreover, such organizations often had an adversarial relationship with the government and, perhaps especially in the Third World, it would be unrealistic to expect States parties to provide an unbiased account of their activities. Making such a request in the case of Bahrain would also make it difficult for the Committee not to make the same request of all States parties. He therefore felt it would be more appropriate to delete the paragraph.

138. Mr. FALL felt such a request was most unusual. It was not the Committee's mandate to encourage or create non-governmental organizations, although it welcomed the information they provided. The Government of Bahrain had after all created a Committee for Human Rights and the situation in the country was not especially negative. It was pointless to open a political debate and he therefore believed the paragraph should be deleted.

139. Mr. ABOUL-NASR thought it unnecessary to request the State party to report on the activities of non-governmental organizations. The State had already stated that non-governmental organizations existed; it was one of the more open regimes in that region of the world and should be encouraged and congratulated. It was probably pointless anyway to ask governments to report on NGOs because such organizations often criticized governments, who

would tend to be negative in describing their activities. It was important that the Committee continue to receive information from NGOs, but independently of Governments so that the Committee could make its own judgements.

140. Mr. YUTZIS said that, having listened to the comments by his colleagues, he felt that the paragraph should be deleted.

141. The CHAIRMAN said that in light of the discussion, he took it that the Committee wished to delete paragraph 12.

142. It was so decided.

Paragraphs 13 and 14

143. Paragraphs 13 and 14 were adopted.

Paragraph 15

144. Mr. RECHETOV pointed out that in line 3 the word "all" should be deleted to bring the paragraph into conformity with the Committee's past practice.

145. Paragraph 15, as revised, was adopted.

146. The draft concluding observations concerning the initial, second, third, fourth and fifth periodic reports of Bahrain as a whole, as amended, were adopted.

The meeting rose at 5.55 p.m.